

Panaji, 13th April, 2012 (Chaitra 24, 1934)

SERIES II No. 2

OFFICIAL GAZETTE



GOVERNMENT OF GOA

PUBLISHED BY AUTHORITY

EXTRAORDINARY

GOVERNMENT OF GOA

Department of Elections

Goa State Election Commission

—
Order

No. 3/4/2012-SEC/49

Whereas the General Elections, 2012 to 185 Village Panchayats in the State of Goa are scheduled to be held on May, 2012.

And whereas on the day of polling, the Presiding Officers are required to verify the identity of the elector with reference to his/her respective entry in the Voters List at the Polling Booth.

Now, therefore, as a necessary measure to avoid the malpractice of impersonation, the following documents are hereby prescribed any one of which to be produced by the Elector at the Polling Booth.

1. Elector Photo Identity Card (EPIC) issued by the Election Commission of India;
2. Voters Photo Identity Slip issued by the Returning Officer/Booth Level Officer during General Elections, 2012 to Goa Legislative Assembly;
3. Photo Identity Card issued by any Department of Central Government or State Government or a Government Undertaking;
4. Smart Card or any other Photo Identity Card issued by the Government of India or Government of Goa;
5. Valid Driving License or Passport issued by Competent Authority;
6. PAN Card issued by Income Tax Department;

7. Pass Book of any Nationalized/Scheduled/Co-operative Bank containing Photograph of account holder with stamp of Bank issued on or before 31-12-2011;

8. Photo Identity Card issued by the Head of any Educational Institute recognized by Government of India or Government of Goa.

The Elector may produce any one of the above listed documents to establish his/her identity at the Polling Booth.

It is further clarified that in case of unclear photos or mismatch of photo on the EPIC/Voters slip issued by Election Commission of India, the issue of Ballot paper shall not be refused merely on the ground of unclear photo or mismatch of photo if the identity of the Elector is otherwise established.

The Returning Officers shall provide a copy of this order to all Presiding Officers during their training at Taluka Level.

Dr. M. Modassir, IAS (Retd.), Commissioner.

Goa State Election Commission.

Panaji, 5th April, 2012.

Notification

No. 3/10/99-SEC/117

Whereas the State Election Commission, vide its Notification No. 3/10/99-SEC dated 25th August, 1999 published in the Official Gazette No. 23, Series I dated 2nd September, 1999 had prescribed a Code of Conduct for ensuring free, fair, smooth and peaceful elections to the Panchayats at all levels and Municipalities.

And whereas vide Notification No. 3/10/99-SEC dated 7th December, 2001 another Order had been issued in addition to the existing Code of Conduct referred to in para 1 above.

And whereas the State Election Commission is of the opinion that a further clarification in the form of Do's and Don'ts is required to be issued for better implementation of the Code of Conduct.

Now, therefore the State Election Commissioner in exercise of the powers vested in it under Articles 243K and 243ZA of the Constitution of India, read with Section 237 of the Goa Panchayat Raj Act, 1994 and Section 10A of the Goa Municipalities Act, 1968 and Section 11 of the City of Panaji Corporation Act, 2002 do hereby issues the following Order which is an addition to the existing Code of Conduct referred to in para 1 and 2 above.

Order

The General Elections, 2012 to 185 Village Panchayats in the State of Goa are scheduled to be held in mid-May, 2012.

The Code of Conduct for elections to Panchayats and Municipalities in the State of Goa has been notified vide Notification No. 3/10/99-SEC dated 25-08-1999 published in Official Gazette No. 23 Series I dated 02-09-1999. The Code of Conduct shall come into force from the date of announcement of schedule relating to Panchayats and Municipalities.

In this connection with reference to ensuing Panchayat Elections, the attention of all Heads of Departments/Heads of Offices are hereby invited to important aspects of the Code of Conduct which are reproduced hereinbelow in the form of DO's and DONT's-

1. Government & other Instrumentalities of the State:—

(i) Transfers of Government Officers—

- (a) Officials such as Chief Officers, Collectors, Additional Collector, Director of Panchayat, Dy. Collector, BDOs, Mamlatdars, Panchayats Secretaries and such employees connected with or associated with the work of making preparations for and the conduct of the Panchayat Elections and bye-elections.
- (b) Police Officers of all levels in the area where elections are being held should "not be ordered to be transferred from the date of announcement of election programme until the date of completion of the election".

(ii) Officers about whom complaints are received from any contesting candidates reflecting partisan attitude or behaviour will be dissociated with the election work by the Commission and inquiry will be conducted about their conduct and suitable penal action will be taken.

(iii) Concerned authorities to launch prosecution against person who contravene the provisions of Laws and Rules particularly in respect of the Goa Prevention of Defacement of Property Act; Indian Penal Code; rules Governing conduct of meetings, morchas, processions, etc.; rules governing use of loudspeakers, etc. Concerned authorities should note that the use of loudspeaker is permitted only between 8.30 a.m. to 10.00 p.m.

(iv) Excise Department—

- (a) to enforce ban the sale of liquor and intoxicants before the day of the poll, on the day of poll and also on the day of counting of votes.
- (b) Selling or serving of liquor on the aforesaid days in any liquor shops, hotels, restaurants, clubs, star hotels and other establishments not to be permitted.
- (c) Storage of liquor in unlicensed premises to be rigorously checked.
- (d) Steps to be taken to avoid movement of liquor from the adjoining areas to the area where the sale or serving is prohibited.
- (e) The Excise Department should declare and notify as dry days as per Rules in force, including ban on carrying of liquor by individuals and groups even in smaller quantities.

2. On Welfare Schemes and sanction of grants—

(i) The Government should not declare new programme, new scheme, new benefit or initiate new public works of any nature in the area where election process is announced.

(ii) Once the Code of Conduct comes into force, no fresh announcement of Government schemes for giving any benefit to the voters of the Village Panchayats/Municipalities as the case may be and to Village Panchayats or Municipalities where election is being held should be made.

(iii) After commencement of Code of Conduct, no new work shall start in the Village Panchayat area or Municipal area in respect of which even if work orders have been issued before the Code of

Conduct came into force, if the said work has actually not started in the field. These works can start only after the completion of election process. However, if a work has actually started before Code of Conduct comes into force, then it can continue.

(iv) There shall be no bar for the release of payments for completed work/works subject to the full satisfaction of the concerned officials.

(v) Work which forms a part of the larger State-wide scheme or National scheme even though passing through the concerned Village Panchayat or Municipality which are going for polls will be permitted e. g. repair and laying of roads/ /highways, water pipelines, electricity lines, sewerage schemes, etc.

(vi) The Commission does not refuse approval for schemes/works undertaken for tackling emergencies or unforeseen calamities, natural calamities, etc. In these matters however, prior approval of the Commission should be taken and functions should be strictly avoided and no impression should be given or allowed to be created that such welfare measures or works are being undertaken by the Government/Zilla Panchayat/Village Panchayat/Municipality as the case may be, to influence the voters.

3. Misuse of official machinery—

(i) Official vehicles belonging to the Government, public sector undertakings, local bodies, co-operative societies or any other body where public funds have been invested, shall not be allowed to be used for election work by candidates or for any candidates.

(ii) It will be open for official functionaries of the Government including Ministers, M.L.As, to make private visits using their own private vehicles. However, for such visits, the functionaries should avoid taking their personal staff alongwith them.

4. On new recruitment and appointments—

(i) Once the Code of Conduct comes into force, no recruitments/new appointments to any posts in the Village Panchayats or Zilla Panchayats or Municipalities, as the case may be shall be made till the completion of the Village Panchayat or Zilla Panchayat or Municipality election process.

(ii) Recruitments already made before the Code of Conduct will not be covered under the Code.

(iii) The posts which are essential where time bound recruitment is in public interest like

recruitment in Goa Medical College, Goa Engineering College, College of Architecture, College of Pharmacy or any other class of posts, if so determined by the Commission, will be allowed to be filled with prior approval of the Commission.

5. No functionary of the Government including Ministers or M.L.A.s, Zilla Panchayat members and Village Panchayat members or Councillors of Municipalities or Corporation of the City of Panaji will summon any election related Officer for any election work where elections are being held, for discussing any matters pertaining to elections. However, the Ministers may call such Officers for discussing official matters only in their capacity as incharge of the Department concerned.

6. On general issues—

(i) Ongoing schemes which actually started in the field before commencement of the Code of Conduct may continue.

(ii) Provision of medical facilities to terminally/ /critically ill persons may be given.

(iii) Public places and open spaces must be made available impartially to all candidates for holding electioneering meetings.

(iv) It may be ensured by the concerned Authorities of the area that right of every individual for peaceful and undisturbed home life is safeguarded.

(v) The local Police/Magisterial Authorities should be informed of the date, venue and time of the proposed meetings of various candidates including use of loudspeakers, if any.

(vi) The time of starting any processions and the route of the same may be brought to the notice of the Police/Magistrate in advance and permission obtained.

(vii) Any complaint regarding conduct of the elections should be brought to the notice of the Returning Officer/Observer appointed by the Commission.

(viii) Orders of the Returning Officer and the Observer in the field shall be obeyed in all matters relating to conduct of elections.

(ix) No advertisements should be brought out from public exchequer regarding any of the achievements of any candidate or political functionary.

(x) No inducement, financial or otherwise shall be allowed to be offered to the voters.

(xi) Caste and communal feelings of the electors shall not be allowed to be appealed to.

(xiii) Activities which are corrupt practices or electoral offences such as bribery, intimidation of voters, impersonation, canvassing within 100 metres of polling stations, holding of public meetings within 48 hours ending with the starting of the actual polling and conveyance of the voters by the candidates to and fro from the polling stations are totally prohibited.

All the Heads of Departments/Heads of Offices, election related officials are required to strictly implement above provisions once the schedule relating to Village Panchayat elections or Municipality elections are announced. This is for strict compliance and in case of violation of the Code of Conduct, the concerned official shall be personally held liable and shall be subjected to disciplinary action as deemed fit.

Attention of all concerned is drawn to official Circular issued by Joint Secretary (Personnel) vide No.13/5/2011-Per dated 28-09-2011 (Annexure A).

In case of any doubt, the clarification/approval of the State Election Commission should be obtained by writing to the Secretary, State Election Commission. Such clarification and approval shall normally be given latest within 48 to 72 hours.

Dr. M. Modassir, IAS (Retd.), Commissioner
(Goa State Election Commission).

Panaji, 13th April, 2012.

ANNEXURE-A

No. 13/5/2011-Per
Government of Goa,
Department of Personnel,
Secretariat, Porvorim.

Dated: 28-09-2011.

CIRCULAR

It is noticed that at times the concerned officials who are called upon to perform certain functions on behalf of State Election Commission (SEC) sometimes do not pay serious attention to carry out the directions of State Election Commission as required. Perhaps, it is because of the unfounded assumption that as the SEC is dealing with the local bodies elections, the work is not so important. To set aside this impression at rest, the following is brought to the notice of all concerned.

The 73rd and 74th Constitutional Amendment envisages setting up of SEC consisting of a State Election Commissioner. The State Election Commissioner has been vested with the same powers under Article 243K and 243ZA (1) as the Election Commissioner of India under Article 324. The SEC's are also to function independently of State Government in the matter of powers of superintendence, directions and control of all election and preparation of Electoral Roll and the conduct of all elections to Panchayats, Zilla Panchayats and Municipalities.

It may, therefore, be emphasized that the third tier of the Government i.e. Panchayats and Municipalities have a constitutional status and hence the matter of elections connected to these bodies is also needed to be dealt on priority, so as to achieve the objective of holding fair and equitable elections of democratic bodies through franchise as has been very clearly held by Hon. Supreme Court of India.

The Hon. Supreme Court in a four judge bench headed by the then Chief Justice of India in Kishansing Tomar v/s. Municipal Corporation of Ahmedabad & Ors. in Civil Appeal No. 5756 of 2005 has held as follows among others:

"In our opinion the entire provision in the Constitution was inserted to see that there should not be any delay in the constitution of the new Municipality every five years and in order to avoid the mischief of delaying the process and allowing the nominated bodies to continue, the provisions have been suitably added to the Constitution. In this direction, it is necessary for all the State Governments to recognize the significance of the State Election Commission, which is a constitutional body and it shall abide by the directions of the Commission in the same manner in which it follows the directions of the Election Commission of India during the elections for the Parliament and State Legislatures. In fact, in the domain during the elections to the Panchayats and the Municipal bodies under the Art. IX and Part IX A for the conduct of the elections to these bodies they enjoy the same status as the Election Commission of India.

In terms of Article 243 K and Article 243 ZA (1) the same powers are vested in the State Election Commission as the Election Commission of India under Article 324.

The words in the former provisions are in pari materia with the latter provision.

The words 'superintendence, direction and control' as well as 'conduct of elections' have been held in the "broadest of terms" by this Court in several decisions including in Re:

Special Reference No. 1 of 2002 (2002) 8 SCC 237 and Mohinder Singh Gill's case (1978) 1 SCC 405 and the question is whether this is equally relevant in respect of the powers of the State Election Commission as well.

From the reading of the said provisions it is clear that the powers of the State Election Commission in respect of conduct of elections is no less than that of the Election Commission of India in their respective domains. These powers are, of course, subject to the law made by Parliament or by State Legislatures provided the same do not encroach upon the plenary powers of the said Election Commissions.

The State Election Commissions are to function independent of the concerned State Governments in the matter of their powers of superintendence, direction and control of all elections and preparation of electoral rolls form and the conduct of all elections to the Panchayats and Municipalities.

Article 243 K (3) also recognizes the independent status of the State Election Commission. It states that upon a request made in that behalf the Governor shall make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by clause (1). It is accordingly to be noted that in the matter of the conduct of elections, the concerned Government shall have to render full assistance and co-operation to the State Election Commission and respect the latter's assessment of the needs in order to ensure that free and fair elections are conducted.

Also, for the independent and effective functioning of the State Election Commission, where it feels that it is not receiving the co-operation of the concerned State Government, in discharging its constitutional obligation of holding the elections to the Panchayats or Municipalities within the time mandated in the Constitution, it will be open to the State Election Commission to approach the High Courts, in the first instance, and thereafter the Supreme Court for a Writ of mandamus or such other appropriate writ directing the concerned State Government to provide all necessary co-operation and assistance to the State Election Commission to enable the latter to fulfill the constitutional mandate."

It is therefore brought to the notice of all concerned that there should be no laxity on the part of Heads of Departments/Heads of Offices in relieving of the requisitioned Officer, staff, machinery and other incidentals. The requisitioned Officers/staff may also be clearly briefed that they need to engage in the work assigned by the State Election Commission in right earnest with due diligence to avoid any disciplinary action.

Yetindra M. Maralkar, Jt. Secretary (Personnel).



Department of General Administration

Notification

No. 1/3/2012-GAD-II

Read:- Notification No. 1/3/2012-GAD-II dated 19-03-2012, published in the Official Gazette, (Extraordinary No. 2), Series II No. 50 dated 19th March, 2012.

In exercise of the powers conferred by rule 4 of the Business of the Government of Goa (Allocation) Rules, 1987, and all other powers enabling him in that behalf, and in supersession of the Government Notification No. 1/3/2012-GAD-II dated 19th March, 2012, published in the Official Gazette, (Extraordinary No. 2), Series II No. 50, dated 19th March, 2012, the Governor of Goa, in consultation with the Chief Minister, hereby allocates the Business of the Government to the Ministers, as follows:-

I. Shri Manohar Parrikar – Chief Minister.

1. Home.
2. Personnel.
3. Finance.
4. General Administration.
5. Vigilance.
6. Education.

II. Shri Francis D'Souza – Minister.

1. Urban Development.
2. Revenue.
3. Craftsmen Training.

III. Shri Ramkrishna alias Sudin Dhavalikar – Minister.

1. Public Works.
2. Transport.
3. River Navigation.

IV. Shri Laxmikant Parsekar – Minister.

1. Health.
2. Panchayat.
3. Rural Development.

V. Shri Dayanand Mandrekar – Minister.

1. Water Resources.
2. Civil Supplies and Price Control.
3. Art and Culture.

VI. Shri Ramesh Tawadkar – Minister.

1. Sports and Youth Affairs.
2. Tribal Welfare.

VII. Shri Mahadev Naik – Minister.

1. Industries.
2. Social Welfare.

VIII. Shri Dilip Parulekar – Minister.

1. Tourism.
2. Women and Child Development.

IX. Shri Milind Naik – Minister.

1. Power.
2. Housing.

X. Shri Pandurang alias Deepak Dhavalikar – Minister.

1. Co-operation.
2. Factories and Boilers.

XI. Shri Avertano Furtado – Minister.

1. Labour and Employment.
2. Fisheries.

Any other Department or subject not mentioned in this Notification shall be looked after by the Chief Minister.

By order and in the name of the Governor of Goa.

Gurudas P. Pilarnekar, Joint Secretary (GA).

Porvorim, 13th April, 2012.

www.goaprintingpress.gov.in

Published and Printed by the Director, Printing & Stationery,
Government Printing Press,
Mahatma Gandhi Road, Panaji-Goa 403 001.

PRICE—Rs. 6.00

PRINTED AT THE GOVERNMENT PRINTING PRESS, PANAJI-GOA-18/420-4/2012.